

**REMARKS/ARGUMENTS**

Claims 1-8 are present in this application. By this Amendment, claims 1, 4, 7 and 8 have been amended. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Claim 8 was rejected under 35 U.S.C. §101 as directed to non-statutory subject matter. Without conceding this rejection, claim 8 has been amended to recite a “non-transitory computer readable medium” as suggested by the Examiner. Withdrawal of the rejection is requested.

Claims 1-3 and 5-8 were rejected under 35 U.S.C. §102(b) over U.S. Patent No. 5,703,344 to Bezy et al. This rejection is respectfully traversed.

Bezy describes a point of transaction funds confirmation system where a draft such as a check presented by a payor to a payee is confirmed against the account on which the draft is drawn. A confirmation request is submitted to the payor bank through a network, and the payor bank verifies the account identifier and compares the amount of the transaction to an amount of funds available in the account corresponding to the account identifier. Bezy describes that the payor bank processor then returns a response record indicating whether or not sufficient funds are available. Bezy describes that if the record type is funds guarantee record type, then the payor bank will generally place a hold on funds sufficient to cover the draft. Subsequently, when the draft or check corresponding to the hold is presented to the bank for clearing, the hold is removed.

In contrast with the Bezy system, claim 1, for example, recites that the participant establishes a consumer funding account by depositing funds in the consumer funding account, where the consumer funding account is administered by the qualifying system. The Bezy system transmits a request for verification over a network using account information identified from the

draft. If the “qualifying system” in Bezy is the structure and methodology that serves to identify account information and transmit the verification request, this “system” in Bezy does not in any manner administer the account on which the draft is drawn. That is, the merchant system for verifying available funds is not capable of administering the consumer funding account.

With regard to administering the account, the Office Action refers to Bezy at col. 3, lines 17-37, referring to a deposit in an account controlled by the payee . . . . In this passage, Bezy is referring to converting the consumer’s “draft” (check) into “good funds,” which are defined as “cash or other indication of value which the payee has a reasonable expectation of being negotiable or convertible to cash, such as a deposit into an account controlled by the payee and maintained by a solvent or insured financial institution.” These are funds deposited into the vendor’s account after “cashing” the buyer’s “draft.” Nothing in this passage relates to vendor control of a purchaser’s account.

Additionally, since the present system is not a “point of transaction” system like Bezy, there are still additional features of the invention that are lacking in Bezy. As described in the specification, the consumer enters the transaction via the qualifying system. For example, the specification describes that the consumer enters the transaction after establishing a consumer funding account and after it is determined whether sufficient funds are available for the user to participate in the transaction. See, for example, page 17, lines 14-21; and page 14, line 8 - page 16, line 9. In an effort to clarify this distinction, claim 1 has been amended to recite that the participant accesses the qualifying system and enters a transaction requiring a transfer of funds from the participant to a vendor. In contrast, the consumer in Bezy does not “access the qualifying system.” Rather, the system is administered by the vendor or merchant in confirming the existence of a valid account and/or sufficient funds.

Applicant thus respectfully submits that the rejection of independent claim 1 is misplaced.

With regard to the dependent claims, Applicant submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim.

Claim 7 defines a computer system for effecting qualifying of a participant over a global network in a transaction requiring a transfer of funds from the participant to a vendor. The system includes a system server running a server program, wherein the system server administers the consumer funding account. With reference to the discussion above, if it is assumed that the structures for reading account information from a draft or check and for submitting a verification request meet the claimed system server, Applicant submits that in no instance would such structure administer a consumer funding account. Additionally, claim 7 recites that upon access to the system server by the participant, the system server determines whether the participant has established a consumer funding account . . . . As also discussed above, in the Bezy system, in no instance does the purchaser (i.e., the participant) access a system server.

Applicant thus submits that the rejection of claim 7 is misplaced.

Claim 8 defines subject matter related to claim 1 in the context of a computer readable medium. Additionally, claim 8 has been amended to define means for the participant to access the qualifying system and to enter a transaction requiring a transfer of funds from the participant to a vendor. Applicant submits that claim 8 is allowable for similar reasons to those discussed above with regard to claim 1.

Withdrawal of the rejection is requested.

Claims 2 and 4 were rejected under 35 U.S.C. §103(a) over Bezy in view of U.S. Patent No. 3,147,028 to Scully. This rejection is respectfully traversed.

With regard to claim 2, Applicant submits that the Scully patent does not correct the shortcomings noted above with regard to Bezy and independent claim 1. As such, Applicant submits that dependent claim 2 is allowable at least by virtue of its dependency on an allowable independent claim.

Claim 4 expands on the reserving step performed by the qualifying system by reserving a first portion of the funds deposited in the consumer funding account corresponding to a required deposit and reserving a second portion of the funds deposited in the consumer funding account corresponding to an amount of funds required to complete the transaction. In this context, the Office Action refers to previously-known teachings for checking accounts that require a minimum balance. According to the Office Action, “the Examiner construes a minimum balance to connote the claimed ‘required deposit’ because, for example, the ‘special checking account’ could not be opened without the required minimum balance which would be provided by a ‘minimum deposit.’” Claim 4, however, does not reference a minimum balance or minimum deposit for participating in a transaction. Rather, as described in the specification, in certain transactions, a seller may require the purchaser to authorize/hold a deposit amount to participate in the transaction. The deposit amount can be reserved in the consumer funding account to qualify the purchaser. The seller may also require that the purchaser qualify the remaining amount due to complete the transaction. By reserving separate portions of the consumer funding account, the seller is provided with access to liquidated damages in the event that the transaction is not completed. For example, the purchaser may lose only the deposit amount in some instances in the event of default, depending on specified transaction parameters. The existence of a minimum balance required to open or maintain a bank account does not amount to the

claimed methodology wherein two separate portions of the consumer funding account are reserved according to specified transaction parameters.

Additionally, claim 4 has been amended to recite that the participant accesses the qualifying system and enters a transaction requiring a transfer of funds from the participant to a vendor. As discussed above in the context of claim 1, this feature of the invention is also lacking in the Bezy patent. Scully similarly does not correct this shortcoming in Bezy, and for this reason also, Applicant submits that the rejection of claim 4 is misplaced.

Withdrawal of the rejection is requested.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 14-1140.

UNDERSTEIN  
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Respectfully submitted,

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